

Exhibit 14

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Laboratories, Inc., et al.*

Exhibit to the Declaration of Rita Hanscom in Support of
Plaintiffs' Opposition to Dey, Inc. and Dey, L.P.'s Motion for Partial Summary Judgment

Sacramento, CA

Page 304

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY)

AVERAGE WHOLESALE PRICE) MDL No. 1456

LITIGATION)

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THIS DOCUMENT RELATES TO) Civil Action:

State of California, ex rel.) 01-12258-PBS

Ven-A-Care v. Abbott)

Laboratories, Inc., et al.)

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WEDNESDAY, MAY 6, 2009

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VIDEOTAPED DEPOSITION OF

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

by J. KEVIN GOROSPE, Pharm.D.

VOLUME II

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Reported By: CAROL NYGARD DROBNY, CSR No. 4018

Registered Merit Reporter

Sacramento, CA

Page 325

1 time; correct?"

2 "Answer: That's correct."

3 "Question: And is it your understanding
4 based on your experience at Medi-Cal that if a
5 draft report by the Auditor General was sent to a
6 particular department such as DHS, that people in
7 DHS would read it and learn the information
8 contained in it?

9 "MR. PAUL: Objection, form. No
10 foundation."

11 "MR. GOBANA: Same objections."

12 "THE WITNESS:" which is you, "That is
13 correct."

14 Okay. And that's page 212, lines 16,
15 through page 214, line 5.

16 If I asked you those same exact
17 questions today, would your answers be the same?

18 MR. GLASER: I'm going to object as to
19 form, the same as Mr. Paul did during that
20 deposition.

21 MR. ROBBEN: (Nodding head)

22 THE WITNESS: The answers relative to

Sacramento, CA

Page 326

1 what the paragraph says would be the same,
2 however, in context, if you read the rest of the
3 report, as I just briefly scanned it, since I
4 hadn't read this full report previously, as
5 discussed in -- in some of the apparent
6 conclusions of the report that, you know, it
7 referenced that, for example, the Veterans Affairs
8 and hospitals are actually purchasing drugs,
9 whereas the Department of Health Services
10 reimburse providers, so it's a different health
11 care delivery system completely.

12 How HMOs at the time were negotiating
13 prices directly is -- you know, relative to what
14 Medi-Cal would do also, and does and has been
15 doing so since this report apparently was
16 published in -- in 1991.

17 BY MR. ROBBEN:

18 Q. Okay. But I'm asking a very narrow
19 question, which is, Mr. Cole asked you certain
20 questions, and you gave certain answers in March
21 of 2008, and the only question I'm asking, which I
22 think you can answer "yes" or "no" is, does the

Sacramento, CA

Page 610

1 A. Uh-huh.

2 Q. -- they would lose money; is that right?

3 A. That's correct.

4 Q. Okay. And, conversely, do you recall
5 previously testifying in this case that if the
6 reimbursement had hypothetically been set at AWP-
7 56.6 percent --

8 A. Uh-huh.

9 Q. -- pharmacies receiving reimbursement
10 for dispensing those drugs represented on the left
11 side of the mean or the left side of the graph
12 would make money?

13 A. That's correct.

14 Q. Is that right?

15 And do you remember that testimony?

16 A. Yes.

17 Q. Is that your testimony today though?

18 A. Yes.

19 Q. Okay. Now, Dr. Gorospe, do you -- to
20 your knowledge has DHCS ever had a policy of
21 purposefully over-reimbursing Medi-Cal providers
22 for their drug ingredient costs?

Sacramento, CA

Page 611

1 A. No.

2 Q. And to your knowledge has DHCS ever had
3 a policy of purposefully under-reimbursing Medi-
4 Cal providers for their drug costs?

5 A. No.

6 Q. And do you recall testifying that it's
7 DHCS's policy to reimburse Medi-Cal providers in a
8 fair and consistent manner?

9 A. Yes.

10 Q. And, as far as you know, has that always
11 been the case?

12 A. Yes.

13 Q. And, more particularly, for the purposes
14 of this case, was that the case between the period
15 of January 1st of 1994 and December 31st of 2004?

16 A. Yes.

17 Q. Now, looking at the graph again, does it
18 appear that the AWP's for the drugs sampled in the
19 study closely tracked the average acquisition
20 costs of those drugs?

21 MR. ROBBEN: Object to the form.

22 THE WITNESS: No.

Sacramento, CA

Page 619

1 program?

2 MR. ROBBEN: Object to the form.

3 THE WITNESS: That's what this would
4 indicate.

5 MR. GLASER: Okay. I think I have no
6 further questions.

7 MR. ROBBEN: I've just got a few --

8 MR. GLASER: David, do you have any?

9 MR. ZLOTNICK: Yeah, I would like to ask
10 just three or four questions.

11 MR. GLASER: Okay.

12

13 EXAMINATION

14 BY MR. ZLOTNICK:

15 Q. Dr. Gorospe, this is David Zlotnick,
16 counsel for Vena-A-Care of the Florida Keys.

17 Would it be practical for the Department
18 to monitor actual acquisition prices and establish
19 different reimbursement amounts for each of the
20 26,000 drugs that it covers?

21 A. No, that wouldn't -- it would be
22 exceedingly difficult to do that, because it would

Sacramento, CA

Page 620

1 be 20 to -- 26,000 national drug codes from over
2 5,000 pharmacies.

3 Q. Why does the Department use Average
4 Wholesale Prices as a reimbursement benchmark
5 rather than actual acquisition costs?

6 A. Because it is the -- currently the only
7 price that's readily available to the Department
8 outside of Wholesaler Acquisition Costs.

9 Q. Now, would it be correct to summarize
10 the dialogue between yourselves and Mr. Glaser
11 regarding Exhibit 21 as demonstrating that there's
12 a substantial degree of variability in the
13 relationship between AWP and actual acquisition
14 costs with respect to the multi-source drugs
15 depicted on that chart?

16 MR. ROBBEN: Object to the form.

17 THE WITNESS: Yes.

18 BY MR. ZLOTNICK:

19 Q. Does that variability create any
20 difficulties for the program in establishing an
21 equitable reimbursement rate?

22 A. Yes. There -- whenever you have wide